IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

MACA.No. 505 of 2003()

OPMV.662/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY

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APPELLANT/PETITIONER:

K.MOHANDAS, S/O. MADHAVAN,
REMALAYAM, KADACHIRA, KANNUR, REP. BY POWER OF
ATTORNEY HOLDER, K.K.SASEENDRAN, S/O.UMBOOTY,
PUSHPALAYAM, KOODALI, KANNUR DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS: RESPONDENTS:

(*)1. NALLAVEETTIL RAJESH, S/O.LAKSHMANAN,
MUNDERI AMSOM, KUDUKKUMOTTA.(DELETED)

2. SMT.SANGEETHA VALSALAN, W/O.VALSALAN,
NO.301, SAVERA, CHAKKARAKKAL, P.O. MOWANHERI,
KANNUR.

3. THE ORIENTAL INSURANCE CO.,
BRANCH OFFICE, TALIPARAMBA.

(*)NAME OF THE FIRST RESPONDENT IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE APPELLANT AS PER ORDER DATED 16/11/2007 VIDE MEMO DATED 6.11.2007 CF 11663/07.

BY ADV. SRI.M.JACOB MURICKAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 3/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

M.A.C.A.No.505 of 2003

Dated, this the 3rd day of December, 2007

JUDGMENT

Petitioner in O.P.(MV) No.662/1998 on the file of the Motor Accidents Claims Tribunal, Thalassery is the appellant. The appeal is filed against an award passed by the Tribunal dismissing a petition filed by the appellant claiming compensation on account of the damages sustained to a vehicle in a motor accident. According to the appellant he is the owner of car bearing registration No.KL-10/936. It was averred that on 14.2.1997 a stage carriage bus bearing registration No.KL-13-A/7869 driven by the first respondent came and hit against the car owned by the appellant. The car was completely damaged and appellant had spent more than Rs.50,000/- for repairing the same. Third respondent alone filed a written statement. It was contended that the appellant who is the power of attorney holder is an agreement owner of the vehicle. It was admitted that the vehicle was covered with valid policy of insurance. It was contended that on 21.12.1993 the registered owner sold the vehicle to Saseendran for whom appellant was holding a power of attorney. Tribunal finding that the appellant failed to prove his title dismissed the petition. Challenging that award this appeal is filed.

2. The appellant/petitioner is one Mohandas. According to him he is the owner of the vehicle. He was represented by a power of attorney holder. The

case put forward by the insurer was that the appellant sold the vehicle on 21.12.1993 to his power of attorney holder and as such he is not entitled to get compensation. Tribunal found that the appellant failed to establish his title over the property and dismissed the petition.

3. It is a case in which the registered owner along with the person who claims to have purchased the car filed the petition for compensation. The vendee is the power of attorney holder. The vehicle is movable and the sale of the same is governed by the provisions of Sale of Goods Act. These aspects were not considered by the Tribunal. So I am of the view that it is only just and proper that the appellant is given one more opportunity to establish his case that he is entitled to get compensation. For that purpose the case has to go back.

In the result, appeal is allowed. The award passed by the Tribunal dismissing O.P.(MV) No.662/1998 is hereby set aside. The case is remanded to Tribunal for fresh disposal in accordance with law after giving a reasonable opportunity to both sides to adduce further evidence, if so advised. Parties are directed to appear before the Tribunal on 18.1.2008.

K. PADMANABHAN NAIR,
JUDGE.

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